

1974

## c 121 The Land Speculation Tax Amendment Act, 1974 (No. 1)

Ontario

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## CHAPTER 121

**An Act to amend  
The Land Speculation Tax Act, 1974**

*Assented to February 6th, 1975*

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Sub-subclause A of subclause i of clause a of sub-<sup>s. 1 (1) (a)</sup>  
section 1 of section 1 of *The Land Speculation Tax Act*,<sup>(1) (A),</sup> amended  
1974, being chapter 17, is amended by inserting after  
“B” in the second line “BA, BB,”.
- (2) Sub-subclause B of subclause i of clause a of sub-<sup>s. 1 (1) (a)</sup>  
section 1 of the said section 1 is repealed and the<sup>(1) (B),</sup> re-enacted  
following substituted therefor:
- (B) as the result of a disposition described  
in subclause iv of clause d occurring on  
the death of a person dying after the  
9th day of April, 1974, the fair market  
value of the designated land at the  
death of such person,
- (BA) as the result of the creation of a trust  
of which the transferor was or became  
a beneficiary, or as the result of the  
distribution of the designated land to  
the transferor under the terms of a  
trust of which the transferor was, at  
the time of such distribution, a bene-  
ficiary, the fair market value of the  
designated land at the time it first  
became subject to the trust if it first  
became subject to the trust after the  
9th day of April, 1974, or where the  
designated land first became subject  
to the trust on or prior to that date,  
the fair market value of the designated  
land on that date, and the existence  
with respect to the designated land of

any limited beneficial interest, whether for the life of some person or otherwise, that affected the designated land after the creation of the trust shall not be taken into account to reduce the fair market value of the designated land for the purposes of this sub-subclause,

- (BB) as the result of a disposition to him the proceeds of which were required to be determined in accordance with sub-clause iv of clause *l*, an amount equal to the proceeds of disposition so determined or to the proportion thereof that is reasonably attributable to the designated land with respect to which a lease or similar arrangement is being entered into by the transferor or with respect to which rights under any lease or similar arrangement are being sold, assigned or transferred by the transferor in circumstances that constitute a disposition by him within the meaning of subclause iii of clause *d*.

s. 1 (1) (a)  
(i) (C),  
amended

- (3) Sub-subclause C of subclause i of clause *a* of subsection 1 of the said section 1 is amended by adding at the commencement thereof "subject to sub-subclauses B, BA, BB and D,".

s. 1 (1) (a)  
(i) (D),  
re-enacted

- (4) Sub-subclause D of subclause i of clause *a* of subsection 1 of the said section 1 is repealed and the following substituted therefor:

(D) as the result of a disposition exempt from tax by virtue of clause *h* of section 4, the fair market value applicable to the designated land on the earliest day of the period determined under sub-clause v during which compound interest may be calculated in accordance with that subclause by the transferor making the disposition to the calculation of the adjusted value of which that subclause is applicable.

s. 1 (1) (a) (ii),  
amended

- (5) Subclause ii of clause *a* of subsection 1 of the said section 1 is amended by adding at the end thereof "or the cost to the transferor of its acquisition, whichever is the higher amount,".

- (6) Subclause iii of clause *a* of subsection 1 of the said section 1 is amended by adding at the end thereof "and, <sup>s. 1 (1) (a) (iii), amended</sup> in the case of a transferor making a disposition of designated land used in farming that is neither a disposition within the meaning of subclause iv of clause *d* nor a disposition exempt from tax by virtue of clause *h* of section 4, the cost of improvements made to the designated land since the earliest day of the period determined under subclause v during which compound interest may be calculated in accordance with that subclause by the transferor and up to the earliest date that an improvement was made to the designated land by the transferor the cost of which is included by virtue of this subclause in computing adjusted value,".
- (7) Subclause iv of clause *a* of subsection 1 of the said section 1 is repealed and the following substituted <sup>s. 1 (1) (a) (iv), re-enacted</sup> therefor:

(iv) for that period that is not the shorter of,

- (A) the period of time commencing on the 9th day of April, 1974 or the date upon which the designated land was acquired by the transferor, whichever is the later date, and during which the transferor owned the designated land, or
- (B) the period of time commencing on the earliest day of the period determined under subclause v during which compound interest may be calculated in accordance with that subclause by the transferor and ending on the day of the disposition by the transferor,

the lesser of either,

- (C) five-sixths of 1 per cent times the number of full months in the period determined to be applicable under either sub-subclause A or B times the amount determined under either sub-clause i or ii, whichever is applicable, or
- (D) the total net maintenance costs incurred with respect to the designated land during the period determined to be applicable under either sub-sub-clause A or B,



- (iva) the reasonable costs incurred by the transferor in connection with the acquisition of or the disposing of the designated land, but not including taxes however imposed that are payable as a result of the disposition or any costs of acquisition that have been included by virtue of any other provision of this Act, and

s. 1 (1) (a) (v),  
re-enacted

- (8) Subclause v of clause a of subsection 1 of the said section 1 is repealed and the following substituted therefor:

- (v) in the case of a disposition of designated land used in farming that is neither a disposition within the meaning of subclause iv of clause d nor a disposition exempt from tax by virtue of clause h of section 4, an amount equal to compound interest at the rate of 10 per cent per annum calculated with annual rests upon the amount determined under subclause i or ii, whichever is applicable to the transferor, for the number of years in the period of time preceding the disposition and commencing on the 9th day of April, 1974 or the date of the occurrence of any disposition of such designated land within the meaning of subclause iv of clause d or the date of the occurrence of any disposition of such designated land that was not exempt from tax by virtue of clause h of section 4, whichever is the later date, throughout which farming was carried on on such designated land by the transferor or by any previous owner of such designated land or by a shareholder or member of the family of the transferor or such previous owner.

s. 1 (1) (d) (iii),  
amended

- (9) Subclause iii of clause d of subsection 1 of the said section 1 is amended by striking out "ten" in the fifth line and inserting in lieu thereof "fifty" and by adding at the end thereof "if at the time of the sale, assignment or transfer of such rights, the term remaining under such lease or arrangement, including any renewals or extensions thereof, may exceed fifty years,".

- (10) Subclause vi of clause *d* of subsection 1 of the said section 1 is repealed and the following substituted therefor: s. 1 (1)  
(d), (vi),  
re-enacted

- (vi) the sale or transfer in any manner of the beneficial interest in, or the allotment and issue (other than an allotment and issue of shares made to the holders of all shares to which are attached rights to vote ordinarily exercisable at meetings of the shareholders of the corporation and issued in proportion to their ownership of such shares determined immediately prior to such allotment and issue) of, shares to which are attached 50 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are shares in the capital stock of a corporation 50 per cent or more of the assets of which consist of designated land, but this subclause does not apply to any transfer of the beneficial interest in such shares that occurs by reason of the death of the owner of them and that is not provided for by an agreement enforceable against the corporation that issued such shares or enforceable by or against the person legally or beneficially entitled to such shares immediately following the death of the owner of them, or

- (11) Subsection 1 of the said section 1 is amended by adding thereto the following clause: s. 1 (1),  
amended

(*ea*) "farming assets" of a farming corporation means,

- (i) cash, trade accounts receivable, supplies and inventory of commodities or things produced, raised or grown through farming carried on by the farming corporation of which they are assets,
- (ii) land, buildings, equipment, machinery and live stock that are used chiefly in the operation of the farm by the farming corporation,

- (iii) any right or licence granted or issued under any Act of the Legislature that permits or regulates the production or sale of any commodity or thing produced, raised or grown through farming, and
- (iv) the building in which a shareholder of the farming corporation or a member or members of his family reside who is or are engaged in the operation of the farm if that building is on land that is used, or that is contiguous to land that is used, by that shareholder or member or members of his family in the operation of the farm.

s. 1(1)(f),  
re-enacted

- (12) Clause *f* of subsection 1 of the said section 1 is repealed and the following substituted therefor:

(f) "farming corporation" means a corporation,

- (i) each share of which that confers on the holder thereof the right to vote is, at the date of any disposition with respect to which the expression is being applied, owned by one individual ordinarily resident in Canada, by an individual ordinarily resident in Canada who is a member of the family of every other shareholder of the corporation, or by an individual ordinarily resident in Canada of whose family every other shareholder of the corporation is a member ordinarily resident in Canada,

- (ii) 95 per cent of the assets of which are farming assets, and

- (iii) which carries on farming in Ontario.

s. 1(1)(l),  
amended

- (13) Clause *l* of subsection 1 of the said section 1 is amended,

- (a) by striking out "or" at the end of subclause ii;
- (b) by adding "or" at the end of subclause iii;
- (c) by adding thereto the following subclause:

- (iv) an amount equal to the fair market value of the designated land with respect to which any lease or similar arrangement has been entered into, or with respect to which the



rights under any lease or similar arrangement that have been sold, assigned or transferred are exercisable, where the entering into such lease or similar arrangement or the sale, assignment or transfer of rights thereunder is a disposition within the meaning of subclause iii of clause *d*,

and

(*d*) by striking out "under the last will and testament of any person or on the intestacy of any person" in the thirty-ninth and fortieth lines and inserting in lieu thereof "described in subclause iv of clause *d*".

(14) Subsection 6 of the said section 1 is repealed.

s. 1 (6),  
repealed

(15) Subsection 8 of the said section 1 is repealed.

s. 1 (8),  
repealed

(16) Subsection 9 of the said section 1 is repealed and the following substituted therefor:

s. 1 (9),  
re-enacted

(9) For the purpose of subsection 11 and of clause *a*, *l* Application of Act to certain dispositions  
or *o* of subsection 1, where, after the 9th day of April, 1974, a certain disposition that is not exempt from tax by virtue of clause *h* of section 4 and that is a disposition described in subclause v, vi or vii of clause *d* of subsection 1 occurs of or with respect to designated land, the person or persons who is or are immediately prior to the occurrence of such disposition beneficially interested in the designated land with respect to which such disposition has occurred shall be deemed to have disposed of it for proceeds of disposition equal to the amount of the fair market value of the designated land at the time of such disposition, and the person or persons who is or are immediately following the occurrence of such disposition beneficially interested in the designated land with respect to which such disposition has occurred shall be deemed to have acquired or reacquired the designated land for an amount equal to the amount of its fair market value at the time of such disposition, and for the purpose of determining the adjusted value of the designated land on the occurrence of the next subsequent disposition of the designated land that is not a disposition exempt from tax by virtue of clause *h* of section 4, subclauses iii, iv and, where applicable, v of clause *a* of subsection 1 apply only to the period ending at the time of the next subsequent disposition of the designated land that is not



exempt from tax by virtue of clause *h* of section 4 and commencing at the time when the transferor making such next subsequent disposition was last deemed to have acquired or reacquired the designated land pursuant to this subsection.

Determining  
assets  
consisting  
of designated  
land

(10) In determining, for the purposes of this Act or the regulations, whether 50 per cent or more of the assets of any organization, syndicate, association of persons, partnership, joint venture or corporation with or without share capital (which organization, syndicate, association of persons, partnership, joint venture or corporation with or without share capital is hereafter in this subsection referred to as the "disposing person") consist of designated land, the following rules apply,

- (a) assets consisting of designated land shall be deemed to include all designated land to the extent that it is beneficially owned by a corporation that is in fact directly or indirectly controlled by the disposing person;
- (b) where the assets of the disposing person (other than designated land owned by, or deemed by this subsection to be included in the assets of, the disposing person) derive all or part of their value from the value of designated land that is deemed by this subsection to be included in the disposing person's assets, there shall be deducted from the fair market value of those assets the value of which is so derived any amount reasonably attributable to the designated land deemed by this subsection to be included in the assets of the disposing person; and
- (c) the percentage of the assets of the disposing person consisting of designated land shall be determined on the basis of the fair market value of all assets owned by, or deemed by this subsection to be included in the assets of, the disposing person and after making any deduction required to be made by clause *b*.

Disposition  
deemed to  
occur

(11) Where a disposition described in subclause *v*, *vi* or *vii* of clause *d* of subsection 1 occurs, it is deemed to be a disposition of or with respect to any designated land that is, at the occurrence of the first-mentioned disposition, deemed by subsection 10 to be included in the assets of an organization, syndicate, association of persons, partnership, joint venture or corporation with or without share

capital to the extent of the beneficial interest in such designated land that is deemed by subsection 10 to be included in such assets, and for the purposes of this Act or the regulations, such designated land shall be deemed to have been disposed of by a disposition described in subclause v, vi or vii, as the case may be, of clause *d* of subsection 1, but any purchaser or mortgagee of such designated land who acquires it for value or lends money on the security thereof, in good faith and without notice of the occurrence of a disposition deemed by this subsection to have occurred shall hold the designated land free from, and there shall not attach to such designated land, the special lien conferred by section 5 for the amount of any tax imposed by this Act as a result of a disposition deemed by this subsection to have occurred prior to the acquisition of such designated land by such purchaser or the taking of security thereon by such mortgagee.

(12) Where rights under any lease or similar arrangement are being sold, assigned or transferred in circumstances that constitute a disposition within the meaning of subclause iii of clause *d* of subsection 1 and where the proceeds of such disposition are required to be determined in accordance with subclause iv of clause *l* of subsection 1, the transferor making such disposition may, in lieu of the amount required by sub-subclause A, B, BA or C of subclause i of clause *a* of subsection 1 or by subclause ii of that clause to be added to the adjusted value applicable to such disposition, add an amount equal to the fair market value of the designated land with respect to which the rights under the lease or similar arrangement that are being sold, assigned or transferred are exercisable, such fair market value to be ascertained as at the 9th day of April, 1974 or the date on which the transferor acquired such rights, whichever is the later date.

Adjusted  
value on  
certain  
dispositions  
of rights  
under leases

2.—(1) Subsection 3 of section 2 of the said Act is amended by inserting after “interest” in the fourth line “from the later of ninety days after the disposition or the date of completion of the transaction of which the disposition is a part”.

s. 2 (3),  
amended

(2) The said section 2 is amended by adding thereto the following subsection:

s. 2,  
amended

(5) Notwithstanding anything to the contrary in this Act, where a disposition of or with respect to designated

No tax on  
failure of  
disposition

land occurs and the transaction, sale or transfer of which the disposition is a part is not completed, and where, following such failure of completion, the transferor who made the disposition is in the same position with respect to the ownership of the designated land as he would have been had the disposition not occurred, no tax is payable with respect to such disposition.

s. 4 (b),  
amended

- 3.—(1) Clause *b* of section 4 of the said Act is amended by adding at the end thereof “by Ontario Hydro or by an authority as defined in *The Conservation Authorities Act*”.

s. 4 (c),  
repealed

- (2) Clause *c* of section 4 of the said Act is repealed.

s. 4 (e),  
amended

- (3) Clause *e* of the said section 4 is amended by striking out “ten” in the eighth line and inserting in lieu thereof “eleven”.

s. 4 (h),  
re-enacted

- (4) Clause *h* of the said section 4 is repealed and the following substituted therefor:

(h) when the designated land,

(i) is disposed of otherwise than by a disposition described in subclause iv of clause *d* of subsection 1 of section 1,

(ii) is, at the time of its disposition, used in farming carried on by the transferor, by an individual ordinarily resident in Canada who is a member of the family of the transferor or by the transferor and any such individual,

(iii) is disposed of,

(A) to an individual ordinarily resident in Canada who is a member of the family of the transferor,

(B) to a corporation that, immediately following the disposition, is a farming corporation each share of which that confers on the holder thereof the right to vote is, at the date of such disposition, owned by the transferor making the disposition or by an individual ordinarily resident in Canada who is a member of the family of such transferor,



(C) by a disposition described in subclause vi of clause *d* of subsection 1 of section 1 that is the result of the sale or transfer in any manner of the beneficial interest in, or is the result of the allotment and issue of, shares in a farming corporation to an individual ordinarily resident in Canada who is a member of the family of every other shareholder of the farming corporation immediately prior to the sale, transfer or allotment and issue of such shares, or

(D) to a shareholder of a transferor that is a farming corporation, and

(iv) is disposed of for the purpose of enabling the person to whom the disposition is made to carry on farming on the designated land, or is disposed of with the intention that a farming corporation the shares of which are sold, transferred or allotted and issued as described in sub-subclause C of subclause iii will continue to carry on farming on the designated land.

(5) Clause *i* of the said section 4 is amended by striking <sup>s. 4 (i),</sup> amended  
out "or" in the fourth line.

(6) Clause *j* of the said section 4 is amended by inserting <sup>s. 4 (j),</sup> amended  
after "Act," in the third line "an authority as defined in *The Conservation Authorities Act*,".

(7) The said section 4 is amended by adding thereto the <sup>s. 4,</sup> amended  
following clauses:

(k) when the designated land at the time of its disposition, as defined in this clause,

(i) has not previously been disposed of by a disposition for which exemption was claimed under this clause or under section 21,

(ii) is included in a registered plan of subdivision, is the subject-matter of a consent obtained under section 29 of *The Planning Act*, or is owned by the transferor and immediately abuts on designated land that was owned by the transferor and that was the subject-matter of such a consent, and

R.S.O. 1970,  
c. 349



(iii) has, at the expense of the transferor, been,

- (A) in the case where an agreement enforceable against the transferor has been entered into pursuant to clause *d* of subsection 5 of section 33 of *The Planning Act*, wholly or partly serviced for the purpose of complying with requirements for servicing contained in such agreement,
- (B) in the case where the designated land disposed of is the subject of a consent obtained under section 29 of *The Planning Act*, wholly or partly serviced for the purpose of complying with any conditions respecting the servicing of the designated land that are imposed pursuant to subsection 12 of section 29 of that Act, or
- (C) in the case where an agreement in writing enforceable against the transferor has been entered into with the municipality within which the designated land disposed of is situated, wholly or partly serviced for the purpose of complying with requirements for servicing contained in such agreement, and
- (D) in all cases, wholly or partly serviced to the extent that construction of a building on the designated land disposed of could lawfully be commenced and, where applicable, to the further extent that a permit authorized by a by-law passed pursuant to subsection 1 of section 38 of *The Planning Act* by the municipality within which the designated land disposed of is situated, or a permit authorized by section 17 of *The Public Lands Act*, would be available,

R.S.O. 1970,  
c. 349

R.S.O. 1970,  
cc. 349, 380

and for the purpose of determining the time at which a transferor making a disposition described in this clause is first entitled to the exemption conferred by this clause, the expression "time of its disposition" means

the time when the person to whom the disposition is made is first entitled to call for delivery to him of a conveyance or transfer of the designated land disposed of or of some other document or evidence of title the agreement to give which was a disposition of the designated land, and no disposition of designated land that is exempt from tax by virtue of this clause shall be deemed to have occurred, for the purposes of this Act, until the time of its disposition, as defined in this clause; or

- (l) when the designated land disposed of is situated in territory without municipal organization that is not designated as a restricted area pursuant to section 17 of *The Public Lands Act*.

R.S.O. 1970,  
c. 380

4. Subsection 3 of section 5 of the said Act is amended by striking out "in order to recognize or give effect to the disposition, it is necessary to register" in the first, second and third lines and inserting in lieu thereof "as a result of the disposition, there is registered" and by striking out "described in a clause and, where applicable, a subclause (which clause and subclause shall be expressly named in the affidavit) of section 4 of this Act" in the fourteenth, fifteenth and sixteenth lines and inserting in lieu thereof "not liable to the tax imposed by subsection 1 of section 2 by virtue of a provision of this Act or the regulations (which provision shall be expressly named in the affidavit)".

s. 5 (3),  
amended

5. Subsection 2 of section 20 of the said Act is repealed and the following substituted therefor:

s. 20 (2),  
re-enacted

(2) Where designated land that is an investment property is disposed of, the taxable value, computed as if this section was not applicable, of the investment property disposed of shall be reduced by an amount equal to one-tenth thereof for each full twelve-month period up to a maximum of ten such periods that is comprised in an uninterrupted period of time,

Investment  
property  
reduction

- (a) that commenced prior to, and ended on, the day on which the disposition occurs;
- (b) during which no previous disposition of or with respect to the designated land occurred, other than a disposition within the meaning of subclause iv of clause d of subsection 1 of section 1 or a dis-

position that is an eligible disposition within the meaning of section 22*a*; and

- (c) throughout the whole of which the designated land was an investment property or the principal residence of the transferor or of a person who disposed of the designated land within such uninterrupted period by a disposition within the meaning of subclause iv of clause *d* of subsection 1 of section 1 or by a disposition that is an eligible disposition within the meaning of section 22*a*.

Farm  
property  
reduction

(3) Where designated land that is used in farming is disposed of and the disposition is neither a disposition within the meaning of subclause iv of clause *d* of subsection 1 of section 1 nor a disposition exempt from tax by virtue of clause *h* of section 4, the taxable value, computed as if this section was not applicable, of the designated land disposed of shall be reduced by an amount equal to one-tenth thereof for each full twelve-month period up to a maximum of ten such periods that is comprised in an uninterrupted period of time,

- (a) that commenced prior to, and ended on, the day on which the disposition occurs;
- (b) throughout the whole of which farming was carried on on the designated land by the transferor, by a person or persons who was or were members of the family of the transferor or, where the transferor is a farming corporation, was or were shareholders of that corporation, or by a farming corporation whose shareholders were the transferor or members of the family of the transferor; and
- (c) during which no previous disposition of or with respect to the designated land occurred, other than a disposition within the meaning of subclause iv of clause *d* of subsection 1 of section 1 or a disposition exempt from tax by virtue of clause *h* of section 4.

s. 21,  
amended

6. Section 21 of the said Act is amended by adding thereto the following subsection:

Application  
of section

(5) This section applies only to dispositions of designated land occurring prior to the 1st day of April, 1975.

ss. 22*a*-22*c*,  
enacted

7. The said Act is further amended by adding thereto the following sections:



22a.—(1) In this section,

Interpre-  
tation

“eligible disposition” means a disposition that is not exempt from tax by virtue of section 4, that is not a disposition described in subclause iv of clause *d* of subsection 1 of section 1, and that is a disposition that is the result of a transaction, arrangement or event whereby the beneficial interest in property of any kind is transferred or extinguished or whereby the control over the use of designated land or the proceeds of its disposition is changed, provided that such transfer or extinguishment of beneficial interest or such change of control is,

- (a) from an individual to a member or members of his family;
- (b) from an individual to a corporation all of the issued shares of which are, immediately following the disposition, beneficially owned by such individual or by a member or members of his family;
- (c) from an individual to the trustees of a trust (other than a trust created by will) under the terms of which the income and corpus of the trust can be beneficially enjoyed or possessed by, or are vested in, only such individual or a member or members of his family, and no other person contingently interested under the terms of the trust can become entitled to the enjoyment or possession of, or to a vested interest in, the income or corpus of the trust except as the result of the death of the individual or a member or members of his family having a prior beneficial interest in such income or corpus;
- (d) from individuals disposing of designated land, including designated land held by them as partnership property, that is owned by them as tenants in common or as joint tenants when the disposition is to a corporation in consideration for the allotment and issue to each such individual of shares of the corporation having a fair market value that is,
  - (i) where the designated land was owned immediately prior to the disposition as partnership property or in tenancy in common, not less than the fair market value of the individual's interest in the designated land immediately prior to the disposition, or
  - (ii) subject to subclause i, where the designated land was owned immediately prior to the



disposition in joint tenancy, not less than the amount that is in the same ratio to the total fair market value of the designated land so disposed of as the number one is to the number of such individuals who owned the designated land immediately prior to the disposition,

and provided that all of the issued shares of such corporation are, immediately following the disposition, owned only by the individuals who disposed of the designated land;

- (e) from a corporation to its shareholders as part of the winding-up or dissolution of the corporation; or
- (f) between or among any of the corporations related to each other in the following manner,
  - (i) the corporation owning all of the issued shares, except directors' qualifying shares, of a corporation described in subclause ii,
  - (ii) a corporation all of the issued shares of which, except directors' qualifying shares, are owned by the corporation described in subclause i,
  - (iii) a corporation all of the issued shares of which, except directors' qualifying shares, are owned by a corporation all of the issued shares of which, except directors' qualifying shares, are owned by the corporation described in subclause i, or
  - (iv) a corporation all of the issued shares of which, except directors' qualifying shares, are owned by one or more of the corporations that are related to each other in the manner described in subclause i, ii or iii.

Adjusted  
value and  
proceeds  
of disposition on  
eligible  
disposition

(2) For the purposes only of determining the tax imposed by subsection 1 of section 2 and notwithstanding any provision of this Act or the regulations to the contrary, where an eligible disposition occurs of or with respect to designated land, the proceeds of such eligible disposition shall be that amount that is equal to the adjusted value therefor computed in accordance with section 1 and without reference to any other valuation required to be made by subsection

9 of that section, and the person or persons who is or are immediately following the occurrence of such eligible disposition beneficially interested in the designated land with respect to which such eligible disposition has occurred shall, for the purposes of a subsequent disposition thereof compute the adjusted value on such subsequent disposition in accordance with the following rules,

- (a) the cost of acquisition of the designated land shall be its cost of acquisition used in computing the adjusted value on the immediately preceding disposition if that disposition was an eligible disposition to which this section applied;
- (b) there may be added to the amount determined under clause *a* all amounts included by virtue of this clause or subclause iii, iv or *iva* of clause *a* of subsection 1 of section 1 in the computation of the adjusted value of the immediately preceding disposition if that disposition was an eligible disposition to which this section applied; and
- (c) there may be added to the aggregate of the amounts determined under clauses *a* and *b* any amounts that the transferor making such subsequent disposition is entitled to include by virtue of subclause iii, iv or *iva* of clause *a* of subsection 1 of section 1 in computing the adjusted value of such subsequent disposition.

22*b*. Notwithstanding any provision of this Act or the regulations to the contrary, where designated land that is <sup>Testa-</sup>being disposed of is, immediately prior to its disposition, <sup>mentary</sup>held upon the terms of a trust created by the last will <sup>trusts</sup>and testament of the person who therein devised such designated land, or where designated land being disposed of was acquired by the transferor making the disposition as the result of a distribution of the designated land to him under the terms of a trust created by the last will and testament of the person who therein devised the designated land or by the last will and testament of a beneficiary of a trust so created who had a vested interest in the designated land capable of being devised or bequeathed by him, the person disposing of such designated land so held or acquired may, in computing its adjusted value on such disposition, include as his cost of acquisition of such designated land the higher of either,

- (a) its fair market value on the date of death of the person by whose last will and testament such trust

was created or its fair market value on the 9th day of April, 1974, whichever is the later date; or

- (b) its fair market value on the date of death, or other termination of the interest, of the last beneficiary under such trust to die, or to cease to have an interest therein, prior to the disposition and who was entitled under such trust to a vested interest in the designated land or to have the designated land held for his use and enjoyment or to have all or part of the income from such designated land held for, or paid to, him.

Additions  
to  
adjusted  
value of  
trust  
property

22c. Where designated land being disposed of is held in trust, or where the transferor disposing of designated land acquired it as the result of the distribution of the designated land to him under the terms of a trust of which he was, at the time of such distribution, a beneficiary, there may be included in computing the adjusted value of the disposition,

- (a) the cost of improvements to the designated land made after the date as of which the acquisition cost of the designated land is required to be determined in computing the adjusted value of the disposition, provided that there shall not be included by virtue of this clause the cost of any improvement made prior to the 9th day of April, 1974 or the cost of any improvement that the transferor is entitled to include by virtue of subclause iii of clause *a* of subsection 1 of section 1 in computing the adjusted value of the disposition; and
- (b) net maintenance costs that have not been included by virtue of subclause iv of clause *a* of subsection 1 of section 1 in computing the adjusted value of the disposition, but such net maintenance costs may be included only to the extent that the amount thereof does not exceed the product of five-sixths of 1 per cent times the amount of the acquisition cost of the designated land included in computing the adjusted value of the disposition times the number of full months in the period commencing on the date as of which such acquisition cost is required to be determined and ending on the day (not later than the date on which the disposition occurs) immediately preceding the day on which the transferor making the disposition was first entitled under subclause iv of clause *a* of subsection 1 of section 1 to include net maintenance costs in computing the adjusted value of the disposition.



8. Subsection 2 of section 23 of the said Act is amended by <sup>s. 23 (2),</sup> adding thereto the following clause:
- (m) reducing the percentages or any of them mentioned in clause *d* or *g* of section 4 or in subsection 1 of section 20, or prescribing rules or formulae for determining the reduction in any percentage so mentioned that may be made without losing the benefit of the exemption or reduction described in clause *d* or *g* of section 4 or in section 20.
9. -(1) This Act, except subsections 7 and 15 of section 1, <sup>Commence-</sup> and sections 2 and 4, comes into force on the day it <sup>ment</sup> receives Royal Assent.
- (2) Subsections 7 and 15 of section 1 and sections 2 and 4 <sup>Idem</sup> shall be deemed to have come into force on the 9th day of April, 1974.
10. This Act may be cited as *The Land Speculation Tax Amend-* <sup>Short title</sup> *ment Act, 1974.*



